

LAKEVIEW ORDINANCES

ORDINANCE NO. 748

RECEIVED
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AIR QUALITY DIVISION
Deschutes County, Oregon
AN ORDINANCE PROHIBITING THE USE OF SOLID FUEL BURNING DEVICES;
PROVIDING CERTAIN EXEMPTIONS AND ESTABLISHING ENFORCEMENT CONTROLS
THEREFOR.

WHEREAS, the health, safety and welfare of the citizens of the Town of Lakeview are adversely affected by the deterioration of air quality within the town limits; and

WHEREAS, wood combustion for space heating produces particulate matter and other pollutants which are injurious to the public health, and are a primary cause of deteriorated air quality within the Town of Lakeview; and

WHEREAS, a mandatory wood burning curtailment ordinance is essential to comply with the provisions of the federal Clean Air Act and assure healthful air quality; now, therefore,

THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS:

As used in this ordinance, the following words, except where the context clearly indicates otherwise, mean:

(a) Air Pollution Alert: A 21 hour period commencing three hours after the designation by the Town of Lakeview of a Yellow Day or Red Day Air Quality Advisory.

(b) Air Quality Advisory: A public announcement to inform Town of Lakeview residents of forecasted air quality.

(c) Alternative Heat Source: A heat source other than a Solid Fuel Burning Device, with such heat source being capable of heating a residence in accordance with Oregon Building Code standards.

(d) Green Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts acceptable air quality for the following 24 hour period.

(e) Yellow Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts increased PM10 concentrations over the following 24 hour period. A Yellow Day forecast signifies that average PM10 concentrations are expected to reach levels of health concern, but which are not expected to approach the 24 hour national ambient air quality particulate health standard of 150 ug/m3.

(f) Red Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts average PM10 concentrations at levels which are at risk of reaching and/or exceeding the 24 hour national ambient air quality particulate health standard of 150 ug/m3.

(g) Person: Any individual, partnership, corporation, company or other association.

(h) Oregon Certified Wood Stove: A Solid Fuel Burning Device certified by the United States Environmental Protection Agency or the Oregon Department of Environmental Quality as meeting emission performance standards specified in Oregon Administrative Rules, 340, Division 34, now in effect or which may be amended from time to time.

(i) Residence: A building used as a home, dwelling or place of abode.

(j) Sole Source of Heat: One or more Solid Fuel Burning Devices which constitutes the only source of heat in a Residence.

A Sole Heat Source is one which provides heat to the main living space of the Residence but does not include ancillary heating units in bed and bathroom areas.

(k) Solid Fuel Burning Device: A device designed for solid fuel combustion so that usable heat is derived for the interior of a Residence and includes, without limitation, solid fuel burning stoves, fireplaces or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel. Solid Fuel Burning Devices do not include barbecue devices, natural gas fire and artificial fireplace logs or pellet stoves.

(l) Warning: An official notification that a person has been found by the Town of Lakeview to be burning on a non-authorized day.

SECTION 2: OPERATION OF SOLID FUEL BURNING DEVICE PROHIBITION:

(a) The operation of a Solid Fuel Burning Device within the Town of Lakeview during an Air Pollution Alert Period shall be prohibited unless an exemption has been granted by the Town of Lakeview pursuant to Section 3 below. A rebuttable presumption of a violation for which a warning or citation shall be issued shall arise if smoke is being discharged through a flue or chimney at any time during an Air Pollution Alert Period. Any person residing in the premises who is over the age of 18 shall be presumed to be the violator unless rebutted by contrary evidence.

(b) Visible smoke emissions created during a thirty (30) minute start up period and thirty (30) minutes after refueling are

exempt but such refueling shall be limited to once every four (4) hours.

(c) On or after two years from the effective date of this ordinance, no property owner shall rent or lease a Residence unless the same is equipped with an Alternative Heat Source. If the owner violates this subsection, the tenant shall not be charged with a violation thereof.

SECTION 3. EXEMPTIONS FROM PROHIBITION:

It shall be permissible for a Residence to operate a Solid Fuel Burning Device during a Red or Yellow Day when the head of that household has previously obtained from the Town of Lakeview Air Quality Office an exemption to operate the same. Exemption availability shall be limited to the following conditions:

(a) Sole Source: An exemption may be issued to the heads of households who sign a sworn statement declaring their reliance on a Solid Fuel Burning Device as the sole device providing heat for the main living space of their Residence. The availability of this exemption shall expire on or after two years from the effective date of this ordinance.

(b) Economic Need: An exemption for economic need to operate a Solid Fuel Burning Device may be granted to heads of households who otherwise qualify under the Sole Source exemption if the head of household can show that the total family income is less than 80% of the median income level for the Town of Lakeview as established by the Federal Department of Housing and Urban Development. There shall be no time limitation on the availability

of this particular exemption.

(c) Oregon Certified Wood Stoves: An exemption may be issued to the heads of household for the operation of an Oregon Certified Wood Stove in a Residence during a Yellow Day Air Quality Advisory. However, the availability of this exemption is strictly contingent upon the Oregon Certified Wood Stove producing no visible smoke. The operation of an Oregon Certified Wood Stove shall be prohibited during a Red Day Air Quality Advisory, unless some other applicable exemption has been granted.

SECTION 4. ENFORCEMENT AND PENALTIES:

Violation of a provision of this ordinance is punishable as follows:

(a) First offense violators of this ordinance shall receive a warning. The Town of Lakeview Air Quality Office shall notify the violator of their non-compliance by registered mail, which notice shall contain the penalty schedule.

(b) Second offense violators of this ordinance shall be punishable by a fine not to exceed \$25.00.

(c) Third offense violators of this ordinance shall be punishable by a fine not to exceed \$100.00.

(d) Subsequent violations shall be punishable by a maximum fine not to exceed \$250.00 per occurrence.

SECTION 5. IMPLEMENTATION:

This ordinance shall automatically become enforceable without further action by the Town of Lakeview, should the Town of

Lakeview fail to demonstrate to the Oregon Department of Environmental Quality reasonable further progress at the time said department conducts its air quality evaluation or if the Town of Lakeview fails to attain the National Air Quality Standard within the time frame specified by the federal Clean Air Act of 1990. Correspondingly, should the Town of Lakeview meet the Air Quality Standard imposed by the federal Clean Air Act of 1990, then this ordinance is of no force and effect.

SECTION 6. SEVERABILITY:

If any section, subsection, sentence or clause, or any portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not effect the validity of the remaining portion thereof.

This ordinance and its purposes being necessary for the preservation of public peace, health and safety of the Town of Lakeview and its inhabitants, an emergency is hereby declared to exist and this ordinance shall be in full force and effect at the time specified in Section 5 above.

No council member present requested that this ordinance be read in full so the same was read by title only and therefore passed unanimously by the Council of the Town of Lakeview and adopted on February 28, 1995.


Sherry Landers, Recorder/Custodian